

Message Text

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21

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 FEA-01 AGR-05 CEA-01 CIAE-00

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FM AMEMBASSY WARSAW

TO SECSTATE WASHDC 4375

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E.O. 11652: N/A

TAGS: PL, ETRD

SUBJECT: DUMPING CASE AGAINST POLISH GOLF CARTS

REF: WARSAW 1676

1. EMBASSY HAS NOW RECEIVED AND IS POUCHING COPIES OF POLISH MEMORANDUM ON GOLF-CART DUMPING CASE PREPARED BY PRZETEL TOGETHER WITH COPIES OF MARCH 10 LETTERS FROM LAW FIRM OF BAKER AND MCKENZIE TO ACTING DEPUTY SECRETARY OF TREASURY SUCHMAN AND SCOTT SHREVE OF CUSTOMS SERVICE.

2. POLISH MEMORANDUM STATES THAT THIS ANTI-DUMPING PROCEEDING IS BOTH COMPLICATED AND PRECEDENTIAL IN NATURE. APART FROM THE POLISH FIRM INVOLVED, THE ONLY MAJOR NO-U.S. MANUFACTURER PROVED TO BE A CANADIAN FIRM WHICH MAKES 250 UNITS PER YEAR, PRACTICALLY BY HAND. SINCE THE POLES ARE PRODUCING 10,000 UNITS ANNUALLY. IN ONE OF THEIR MOST MODERN FACTORIES, THEIR UNIT COSTS OF PRODUCTION AND MARKETING ARE SHARPLY LOWER AND THEY FEEL THAT ANY FAIR DETERMINATION MUST TAKE THIS FACTOR

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INTO ACCOUNT.

3. THE POLES SPECIFICALLY COMPLAIN THAT THEY WERE NOT GIVEN SUFFICIENT TIME TO PRODUCE EVIDENCE REQUIRED BY CUSTOMS, THAT THE STANDARD OF EVIDENCE REQUIRED WAS REPEATEDLY RAISED DURING THE COURSE OF THE INVESTIGATION, AND THAT THE POLISH SIDE WAS FREQUENTLY REQUIRED TO PRESENT NEW INFORMATION WITHIN TWO OR THREE DAYS. THEY ALLEGE THAT CUSTOMS REFUSED TO MAKE ITS DETERMINATION ON THE WEIGHT OF EVIDENCE SUBMITTED; INSTEAD, " A RATHER UNUSUAL STANDARD OF PROOF BEYOND A DOUBT IS BEING REQUIRED".

4. ACCORDING TO THE POLISH MEMORANDUM, CUSTOMS FINALLY REFUSED TO TAKE ANY ECONOMIES OF SCALE INTO ACCOUNT.

5. THE POLES ALSO STATE THAT MARKET PRICES OF POLISH GOLF CARTS ARE FULLY COMPARABLE TO THOSE OF U.S. MAKE AND THAT U.S. STATISTICS SHOW RISING SALES OF U.S. -MADE GOLF CARTS DURING ENTIRE PERIOD SINCE POLISH ENTRY INTO MARKET, A FACT WHICH "EXCLUDES ANY POSSIBILITY OF INJURY TO LOCAL INDUSTRY". THEY ALSO NOTE THAT U.S. COMPONENTS SUCH AS TIRES, BATTERIES, AND CHARGERS MAKE UP FIFTY TO SIXTY PERCENT OF THE TOTAL VALUE OF POLISH GOLF CARTS.

6 THE MEMORANDUM CONCLUDES BY STATING THAT THE TREASURY FINDING OF SALES AT LESS THAN FAIR VALUE MUST BE CONSIDERED AN OBSTRUCTING ELEMENT IN THE DEVELOPMENT OF FREE TRADE BETWEEN THE POLISH PARTY AND ITS U.S. PARTNERS. THE ANNOUNCEMENT IS CAUSING INJURY TO THE GOOD NAME OF THE POLISH MANUFACTURER AND THE CASE MAY HAVE A NEGATIVE IMPACT ON THE FURTHER DEVELOPMENT OF OTHER LINES OF POLISH-U.S. TRADE.

7. THE TWO LETTERS FROM BAKER AND MCKENZIE DOCUMENT PEZETEL'S EFFORTS TO ESTABLISH THAT ITS MORE EFFICIENT MANUFACTURING METHODS SHOULD BE TAKEN INTO ACCOUNT IN COMPARING ITS COST WITH THAT OF THE CANADIAN FIRM WHICH HAD BEEN CHOSEN AS A BASIS FOR COMPARISON. THEY ALSO CONTAIN PEZETEL'S REQUEST FOR AN EXTENSION OF TIME LIMITED OFFICIAL USE

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TO PROVIDE FURTHER DOCUMENTATION DEMANDED BY TREASURY.

8. COMMENT: THE EMBASSY LACKS ANY BASIS FOR COMMENT ON THE VARIOUS POLISH ALLEGATIONS CONCERNING THE MANNER IN WHICH THIS ANTI-DUMPING INVESTIGATION HAS BEEN CONDUCTED JUDGING BY THE REPRESENTATIONS THEY HAVE MADE TO US AND THE DOCUMENTATION THEY HAVE PROVIDED, THE POLES REGARD THIS CASE AS AN IMPORTANT

PRECEDENT AND ARE DEEPLY CONCERNED THAT IT PRESAGES GREAT DIFFICULTY FOR POLAND IN INTRODUCING ANY NEW MANUFACTURED PRODUCTS INTO THE U.S. MARKET. INFLATION IN POLAND HAS BEEN MODERATE BY WORLD STANDARDS AND PRODUCTION COSTS HERE HAVE SIMPLY NOT RISEN AS FAST AS THEY HAVE IN THE U.S. THE POLES MAINTAIN THAT THEY ARE NOT SELLING GOLF CARTS AT LESS THAN COST AND THAT IT IS ENTIRELY UNJUST TO REQUIRE THEM TO KEEP THEIR PRICING POLICIES PRECISELY IN LINE WITH THOSE OF A SMALL AND RELATIVELY INEFFICIENT CANADIAN MANUFACTURER WHO MAKES ONE CART A DAY ON WHAT PRACTICALLY AMOUNTS TO A HANDICRAFT BASIS.

9. THE POLES HAVE SCHEDULED DISCUSSIONS OF THIS CASE DURING THE VISIT OF DEPUTY ASSISTANT SECRETARY OF COMMERCE DOWNEY WHICH BEGINS APRIL 16. WE WILL REPORT FURTHER FOLLOWING THESE DISCUSSIONS IN THE MEANTIME WE WOULD APPRECIATE RECEIVING INFORMATION WHICH WILL ASSIST US IN REBUTTING THE POLISH CONTENTION THAT THE DECISION ON THIS CASE WAS TAKEN IN AN ARBITRARY MANNER.
DAVIES

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